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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,570	03/12/2001	Naoyuki Kouyama	P/1866-58	8885

7590

10/05/2005

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EXAMINER

TRAN, PABLO N

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,570

Applicant(s)

KOUYAMA, NAOYUKI

Examiner

Pablo N. Tran

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 5-6,9,14,16-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,8,10-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-8, 13, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

Regarding claims 7 and 13, the claimed limitation "wherein the tone output controller causes tone output from the receiver at the time of the tone output from the call tone output unit" renders the claim indefinite. Is the tone controller cause tone output from both the receiver and tone output unit at the same time when an incoming call arrived and/or depending on the detection of the hinge? Appropriate correction required.

Regarding claims 8 and 15, the claimed limitation "wherein the tone output controller causes tone output from the call tone output unit at the time of the tone output from the receiver" renders the claim indefinite. Is the tone controller cause tone output from both the receiver and tone output unit at the same time when an incoming call arrived and/or depending on the detection of the hinge? Appropriate correction required.

Claim Rejections - 35 USC § 102

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 7-8, 10-13, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by *Alberth et al.* (6,094,565).

As per claims 1-4 and 10-12, *Alberth et al.* disclosed a call tone output system for a foldable portable telephone set having a hinge for being unfolded and folded having a detector for detecting the unfolding and folding of the hinge and a tone output controller that causes tone output from a call tone output unit upon a call arrival when the hinge is in a folded state, and causes tone output from a receiver when the hinge is unfolded from the folded state (fig. 4, col. 5/ln. 24-43, col. 7/ln. 8-12).

As per claims 7 and 13, *Alberth et al.* disclosed the claimed limitation (fig. 4, col. 5/ln. 24-43, col. 7/ln. 8-12).

As per claims 8 and 15, *Alberth et al.* disclosed the claimed limitation (fig. 4, col. 5/ln. 24-43, col. 7/ln. 8-12).

Response to Arguments

5. Applicant's arguments filed 06/30/05 have been fully considered but they are not persuasive.

Regarding the rejection under 35 U.S.C. 112 of claims 7-8, 13, and 15, the Applicant respectfully submits that the language is clear in not being limited by the status of the hinge. Furthermore, the Applicant state that "claims 7-8, 13, and 15 merely causing tone output from the receiver and the tone output unit at the same time, regardless of the status of the hinge". In response to the Applicant, Figure 7 of the specification shows that the call arrival, when unfolded, then only tone output from the tone output unit. Therefore, the Applicant responds is not consistent with the specification.

The Applicant stated that, "Alberth is neither taught nor suggested a tone output controller that cause tone output from a receiver when the hinge is unfolded from the folded state. In response to the Applicant, Alberth disclosed such method of alerting the user of incoming call, when the hinge is opened (col. 5/ln. 24-43).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haraguchi (6,597,279) and Oota et al. (6,807,433) disclose radiotelephone communication system.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

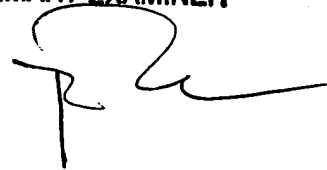
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

September 28, 2005

PABLO N. TRAN
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'P. Tran', with a stylized, flowing script.

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